

Sunset Public Hearing Questions for  
**Council on Pensions and Insurance**  
Created by Section 3-9-101, *Tennessee Code Annotated*  
(Sunset Termination June 2017)

**1. Provide a brief introduction to the Council on Pensions and Insurance including information about its purpose, statutory duties, staff and administrative attachment.**

The Council on Pensions and Retirement was created in 1971 as a legislative oversight committee. It was reorganized into a joint legislative committee in 1975. State law directed the Council to establish pension and retirement standards, survey pension developments, and review and recommend pension legislation.

Legislation enacted by the 96<sup>th</sup> General Assembly expanded the duties of the Council effective July 1, 1989 to include review of legislation that affects state provided insurance programs in addition to those affecting state provided retirement programs. Under this legislation, the Council was renamed as the Council on Pensions and Insurance.

The Council periodically reviews Tennessee's retirement and state provided insurance provisions and recommends changes in state law deemed necessary. Since its creation, the Council has performed studies and comparisons of other pension systems, including those of other states, private industry and the federal government.

All proposed legislation affecting Tennessee's retirement law must be reviewed by the Council before the legislature may take action. The Council is authorized to prepare and propose amendments which are then forwarded to the standing committees to which the bills are referred. Information regarding the actuarial cost or impact of proposed legislation is provided by the Council to the other members of the legislature.

The staff of the Director of TCRS serves as staff to the Council. Since 1989, the State Group Insurance Program (Benefits Administration) has provided additional staff support.

**2. In addition to ex officio members, Section 3-9-101, *Tennessee Code Annotated*, provides for the appointment of three members each from the House and Senate Finance, Ways and Means Committees, appointments to be made by the chairs of the respective committees and approved by the speakers of the respective houses. Who are the committee members currently serving?**

The voting membership of the Council consists of the Speaker of each house of the General Assembly, the officers of the House and the Senate Committees on Finance, and three additional members of each finance committee. The Speakers of each house may select a designee, if they so choose. Non-voting members include the Commissioner of Human Resources, the Commissioner of Finance and Administration, the Comptroller of the Treasury, the State Treasurer, and the Director of TCRS.

The membership for the 2016 Council on Pensions and Insurance includes: Senator Randy McNally, Council Chair; Representative Charles Sargent; Council Vice-Chair; Senator Ferrell Haile; Senator Thelma Harper; Senator Mark Norris; Senator Doug Overbey; Senator

Jim Tracy; Senator Bo Watson; Representative David Alexander, Representative Kent Calfee; Representative Karen Camper; Representative Craig Fitzhugh; Representative Curtis Johnson; Representative Steve McDaniel; Rebecca Hunter, Commissioner Department of Human Resources; Larry Martin, Commissioner Department of Finance and Administration; Justin Wilson, Comptroller of the Treasury; David Lillard, Jr., State Treasurer; and Jill Bachus, Director Tennessee Consolidated Retirement System. The TCRS Director serves as secretary to the Council.

**3. How many times did the council meet in fiscal year 2015 and to date in fiscal year 2016? How many members were present at each meeting?**

During the legislative session, the Council meets weekly until all pension and insurance bills have been heard. When the General Assembly is not in session, the Council meets at the call of the Chairman to review pension and insurance issues. The Council met eight (8) times during calendar year 2015 and met eight (8) times during 2016. The number of voting members present at the meetings was as follows:

<u>2015</u>	<u>2016</u>
9 members, 1 meeting	12 members, 4 meetings
10 members, 1 meeting	13 members, 1 meeting
12 members, 1 meeting	14 members, 3 meetings
13 members, 3 meetings	
14 members, 2 meetings	

**4. What per diem or travel reimbursement do members receive? How much was paid to council members during fiscal year 2015 and to date in fiscal year 2016?**

General Assembly members receive the normal per diem through their legislative services. There is no per diem or travel reimbursement attributable to Council participation.

**5. How does the council ensure that members are operating in an impartial manner and that there are no conflicts of interest? If the council operates under a formal conflict of interest policy, please attach a copy of that policy.**

Legislative members and ex-officio members provide disclosure statements of conflicts of interest to the Tennessee Ethics Commission as provided in T.C.A. §8-50-501.. The Director of Retirement is subject to the Treasury Department conflict of interest policy.

**6. What have been the council's major accomplishments for the past two years?**

The Council's major accomplishments fall into three major categories: (1) conducting a continuous review of the actuarial funding of TCRS to ensure that incurred pension costs are recognized and adequately funded; (2) providing a thorough analysis of the cost and the benefit of proposed legislation pertaining to public pension or insurance benefits, and (3) ensuring that pension benefits are properly funded, both within TCRS and independent public defined benefit plans. In 2015, the Council on Pensions and Insurance worked with the administration on improving an administration bill that redesigned the State Group Insurance Program's governing statute to allow the Department of Finance and Administration the necessary flexibility to provide a comprehensive, affordable, dependable and sustainable insurance benefit. The Council attached an amendment that provided extra guidance for the

state's health savings account investment vehicles and established a trust to pre-fund the state's retiree health insurance benefit.

**7. What reports does the council prepare on its operations, activities and accomplishments? Who receives copies of these reports?**

The Council prepares comments on each bill it reviews during the legislative session for distribution to all members of the General Assembly. These comments report the cost of the proposed legislation, an explanation of the impact the legislation would have, and the Council's recommendation for or against passage.

**8. What were the council's revenues (by source) and expenditures (by object) for fiscal year 2015 and to date in fiscal year 2016?**

There is no specific funding appropriated for operation of the Council on Pensions and Insurance.

**9. Is the council subject to Sunshine law requirements (Section 8-44-101 et seq., *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the council have for informing the public of its meetings and making its minutes available to the public?**

Council meetings are posted on each house calendar with normal legislative announcements and posted to the legislative website.

**10. Has the council established rules, regulations and procedures as authorized in Section 3-9-102(a), *Tennessee Code Annotated*?**

Basically, the Council follows Senate committee rules. Once a bill has been placed on the Council's agenda, it may be rolled twice, but it will be considered by the third week. Other rules and procedures established by the Council have been incorporated into T.C.A. §3-9-103.

**11. Which, if any, of the various insurance and retirement entities created by statute (e.g., the State Insurance Committee created at TCA, Section 8-27-101; the Division of Retirement in the Treasurer's Office, created at TCA, Section 4-3-2403; the Tennessee Consolidated Retirement System, created at TCA, Section 8-34-201; et al.) report to the council? What reports are submitted and how often?**

The Tennessee Consolidated Retirement System presents the following reports to the Council on Pensions and Insurance.

Quadrennial TCRS Experience Study  
Biennial Actuarial Valuation

Annual Comprehensive Financial Report  
Annual Update on TCRS Investments and Investment Performance

In addition to receiving the above-referenced reports, the Council on Pensions and Insurance reviews and approves the TCRS investment policy pursuant to T.C.A. §8-37-104(a)(9), (10).

Pursuant to T.C.A. §8-27-203(a)(3), any change to the provisions of the insurance plan options offered by the State Group Insurance Program must comply with a written policy approved by the Council. On June 23<sup>rd</sup>, 2015, the Council approved a policy which requires the state insurance committee to report on “the annual benefit design, premium, premium supports, changes in dependent eligibility, funding structures, services provided under the plans and new optional health plans and voluntary plans” to the Council.

**12. The council is directed at Section 3-9-102(a)(4), *Tennessee Code Annotated*, to “appraise pension and insurance provisions in force in Tennessee from time to time, along with those in other states and recommend such changes as considered necessary or advisable in the state’s laws.” What were the most pressing issues identified by this appraisal process during the last five years and what statutory changes were recommended by the council to address the issues?**

The most pressing issues identified by the Council during the last five years have centered around (1) compliance with changes in federal laws and regulations, (2) pension costs and unfunded liability of pension plans, both within and outside of TCRS.

First, state law must periodically be amended to comply with numerous changes in federal law and court rulings. Additionally, a full scale review of TCRS provisions (T.C.A. Title 8, Chapters 34-37) was conducted by a third-party law firm in advance of an Internal Revenue Service examination. A number of suggestions have recently been enacted.

Pension funding has been on the forefront of national news. In addition, changes to accounting standards have brought to light the unfunded liability of pension plans. Although TCRS is a well-funded plan, there was a desire to be proactive, recognizing that pension costs and liabilities were only going to grow. Several pieces of legislation were enacted including new pension options for local governments, a new Hybrid plan for state employees and teachers hired on or after July 1, 2014, and legislation setting standards for funding public defined benefit pension plans that were independent of TCRS.

The state group health insurance program also has to make periodic changes to ensure compliance with rules issued by the Government Accounting Standards Board. Recent GASB Statement No. 45 established standards for the measurement, recognition and accounting for a state or local government’s other post-employment benefit (OPEB) obligation. The Council approved several changes to the state group insurance program’s statute as a result of the GASB statement; those changes were ultimately approved by the General Assembly. The Council also recommended the addition of the senate and house finance chairs to the state insurance committee to ensure extra legislative oversight.

During the course of legislative session, while considering bills, the Council may direct staff to research legislative initiatives in other states. For example, in 2014, the Council directed Benefits Administration staff to compile a report of the status of autism and applied behavioral analysis therapy coverage mandates in all other 49 states.

**13. How many pension and insurance bills has the council reviewed during the last three legislative sessions? What was the liability/cost associated with those bills?**

In 2016, the Council reviewed 15 pension bills and 13 insurance bills which carried a total lump sum liability of \$69,000,000. In 2015, the Council reviewed 12 pension bills and 15 insurance bills which carried a total lump sum liability of \$181,000,000. In 2014, the Council reviewed 10 pension bills and 20 insurance bills which carried a total lump sum liability of \$66,458,000,000.

**14. Describe any items related to the council or its activities that require legislative attention and your proposed legislative changes.**

Current state law adequately describes the responsibilities of the Council. No legislative changes are required at this time.

**15. Should this council be continued? To what extent and in what ways would the absence of the council affect the public health, safety, or welfare?**

Yes, the Council on Pensions and Insurance should be continued. When Tennessee's Council on Pensions was established in 1971, pension oversight committees were relatively new. Now, pension oversight committees are considered to be essential to the sound fiscal management of state government and most all states have a legislative body responsible for screening retirement bills and recommending changes or a committee responsible for reviewing pension performance. Tennessee's Council has served a critical role in analyzing and controlling the potentially overwhelming cost of pension legislation introduced in the state and in achieving one of the most strongly funded public systems in the nation. Moreover, it is the opinion of the State Treasurer's Office that the activity of the Council on Pensions and Insurance is one of the key reasons TCRS is one of the five best-funded public retirement systems in the nation.

Some of the most compelling reasons for a state legislature to create and maintain a permanent pension oversight body are explained by the National Conference of State Legislatures in its 1995 publication, Public Pensions, A Legislator's Guide.

State legislatures bear ultimate responsibility to the voters and beneficiaries for the financial security and well-being of state retirement systems. Therefore, state legislatures should approve all changes of benefits and funding methods of retirement systems, and should regularly review their policies. Legislative control of broad policy issues provides a maximum of public involvement through public hearings; provides a forum and means for balancing the interests of current public employees, retired employees and taxpayers; allows for balancing the long-term beneficial and fiscal concerns of all state pension programs; and ensures that all decisions receive the maximum possible public scrutiny.

An important step toward responsible and effective supervision of public pension plans is the creation of a knowledgeable, respected and adequately staffed legislative body with responsibility to review all pension legislation and to recommend legislative changes. Such legislative commissions and

committees are necessary because pension laws demand continuous supervision and attention. A single, ill-conceived provision in a single act could have significant fiscal consequences that are not fully apparent for many years. Worse still, such action might be irreversible since there are serious constitutional impediments in most states to legislation that would reduce an individual's prospective pension benefits.

Another reason for this review body is the complexity of pension legislation. It is rarely possible to foresee the ultimate fiscal consequences of a piece of legislation upon first reading. It is important, therefore, that the reviewing body have staff and independent actuarial and economic assistance to make informed analyses and judgments about proposed changes in the pension system.

The rationale for continuing the Council on Pensions and Insurance in regards to matters that affect the state-sponsored group health insurance program mirrors that outlined above in some respects. The Council can help balance the interests of current public employees, retired employees and taxpayers. As the public sector insurance plans include both member and significant taxpayer support, the Council is one forum to consider the long-term fiscal concerns of the programs. Because health insurance matters are complex and the health insurance marketplace is dynamic, the Council provides the opportunity for members to develop specialized expertise in, understanding of and focus on health insurance matters.

### *Performance Measures*

**16. Has the council developed and implemented quantitative performance measures for ensuring it is meeting its goals? (Please answer either yes or no). If the council has developed and implemented quantitative performance measures, answer questions 17 through 24.**

No.

**17. What are your key performance measures for ensuring the council is meeting its goals? Describe so that someone unfamiliar with the program can understand what you are trying to measure and why it is important to the operation of your program.**

N/A

**18. What aspect[s] of the program are you measuring?**

N/A

**19. Who collects relevant data and how is this data collected (e.g., what types information systems and/or software programs are used) and how often is the data collected? List the specific resources (e.g., report, other document, database, customer survey) of the raw data used for the performance measure.**

N/A

**20. How is the actual performance measure calculated? If a specific mathematical formula is used, provide it. If possible, provide the calculations and supporting documentation detailing your process for arriving at the actual performance measure.**

N/A

**21. Is the reported performance measure result a real number or an estimate? If an estimate, explain why it is necessary to use an estimate. If an estimate, is the performance measure result recalculated, revised, and formally reported once the data for an actual calculation is available?**

N/A

**22. Who reviews the performance measures and associated data/calculations? Describe any process to verify that the measure and calculations are appropriate and accurate.**

N/A

**23. Are there written procedures related to collecting the data or calculating and reviewing/verifying the performance measure? Provide copies of any procedures.**

N/A

**24. Describe any concerns about the council's performance measures and any changes or improvements you think need to be made in the process.**

N/A